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09/843,589	04/25/2001	John Anthony Bruckner	041892.0211	8739

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WILLIAM S. FROMMER  
FROMMER LAWRENCE & HAUG LLP  
745 FIFTH AVENUE  
NEW YORK, NY 10151

EXAMINER

YIMAM, HARUN M

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/843,589

Applicant(s)

BRUCKNER ET AL.

Examiner

Harun M. Yimam

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 8/16/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12, 19-29 and 34-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-8, 19-26, 34-38 and 45-47 is/are allowed.
- 6) ☒ Claim(s) 9-12, 27-29, 39, 42-44 and 48 is/are rejected.
- 7) ☐ Claim(s) 40, 41, 49 and 50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see page 17, 2<sup>nd</sup> paragraph—page 19, filed 08/16/2005, with respect to claims 1-8, 19-25, 34-38, and 45-47 have been fully considered and are persuasive. The original rejection of claims 1-8 and 19-25 has been withdrawn.
2. Applicant's arguments with respect to claims 9-12, 39, 42-44, 27-29, and 48 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 9, 27, 39, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Barone (US 2005/0005303).

Considering claims 9 and 27, Barone discloses an interactive enabling system (20 in figure 3) for managing interactive program content (interactive content—paragraph 0031, lines 1-5) associated with enhanced program content (enhanced program—paragraph 0031, lines 1-5) and interactive commercial content (interactive content—paragraph 0044, lines 1-7) associated with commercial spots (commercial slots during a particular program—paragraph 0035, lines 7-10), the system comprising:

an interactive enabling device (ITV receiver 20 in figure 3) coupled for receiving a broadcast stream (TV signal—paragraph 0026, lines 1-8) generated by a broadcast sponsor and for responding to interactive program (interactive content for a corresponding TV program—paragraph 0031, lines 1-5) and commercial pre-triggers inserted into the broadcast stream (URL link, trigger, or any other ITV data is pre-inserted/preloaded into the program being broadcast—paragraph 0014, lines 1-6 and paragraph 0026, lines 1-8) for retrieving the interactive program (corresponding TV segment) and commercial content (television commercial—paragraph 0027, lines 1-6) in advance of when the content is needed (before the corresponding TV segment will be broadcast—paragraph 0026, lines 5-8), said broadcast stream including the enhanced program content (enhanced program- interactive commercial content—paragraph 0031, lines 1-5 and paragraph 0044, lines 1-7) and the commercial spots (commercial slots during a particular program—paragraph 0035, lines 7-10); and

at least one interactive content server (32 in figure 3) coupled through a communication link for communicating with an interactive control application in the

interactive enabling device (interactive enabling device, ITV receiver 20 in figure 3, is already programmed to automatically establish a link with the interactive content server upon the receipt of any ITV data i.e., interactive commercial triggers—paragraph 0014, lines 7-12, paragraph 0028, lines 1-9);

wherein the interactive enabling device (ITV receiver 20 in figure 3) executes the interactive control application (inherently disclosed as addressed in the limitation discussed above) to manage the retrieval of the interactive program (corresponding TV segment) and commercial content (television commercial—paragraph 0027, lines 1-6) in response to the interactive program and commercial pre-triggers (the ITV data, which can be a simple trigger or other command that commands the ITV receiver to retrieve some interactive content—paragraph 0027, lines 1-6); and

wherein the interactive enabling device (ITV receiver 20 in figure 3) is configured to respond to an interactive commercial pre-trigger (URL link, trigger, or any other ITV data is pre-inserted/preloaded into the program being broadcast—paragraph 0014, lines 1-6 and paragraph 0026, lines 1-8) that has been embedded in the enhanced program content in the broadcast stream (the ITV data is embedded in the TV signal—paragraph 0043, lines 1-8).

As for claim 39, Barone discloses that the said interactive enabling device (ITV receiver—20 in figure 3) is configured to respond to said interactive commercial pre-trigger (URL link, trigger, or any other ITV data is pre-inserted/preloaded into the program being broadcast—paragraph 0014, lines 1-6 and paragraph 0026, lines 1-8) by

executing said interactive control application to manage the retrieval of interactive commercial content that is specified by the interactive commercial pre-trigger during a time when the interactive enabling device is receiving the enhanced program content (enhanced program - interactive commercial content—paragraph 0031, lines 1-5 and paragraph 0044, lines 1-7) in the broadcast stream (paragraph 0015, lines 6-11 and paragraph 0036, lines 1-7).

Considering claim 42, Barone discloses that the interactive commercial pre-trigger (URL link, trigger, or any other ITV data is pre-inserted/preloaded into the program being broadcast—paragraph 0014, lines 1-6 and paragraph 0026, lines 1-8) occurs earlier in the broadcast stream than a commercial spot of the commercial spots that is associated with the interactive commercial pre-trigger (see figure 2b and paragraph 0026, lines 1-8).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10, 11, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable Barone (US 2005/0005303) in view of Markel (US 6,791,579).

As for claim 10, Barone discloses interactive program (interactive content for a corresponding TV program—paragraph 0031, lines 1-5) and commercial pre-triggers inserted into the broadcast stream (URL link, trigger, or any other ITV data is pre-inserted/preloaded into the program being broadcast— paragraph 0014, lines 1-6 and paragraph 0026, lines 1-8) for retrieving the interactive program (corresponding TV segment) and commercial content (television commercial—paragraph 0027, lines 1-6).

Barone fails to disclose pre-triggers inserted into a broadcast stream based on estimates for communication link speed.

In analogous art, Markel discloses that the interactive enabling device is configured for receiving interactive program and commercial pre-triggers that were inserted into the broadcast stream by the broadcast sponsor at a specific time in advance of when the interactive program and commercial content is needed, based on estimates for communication link speed (column 6, lines 36-47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Barone's system to include insertion of pre-triggers based on communication link speed, as taught by Markel, for the benefit of understanding bandwidth constraints and determining the insertion rate.

With regards to claims 11 and 28, it is met by the combination of Barone and Markel. In particular, Markel discloses the interactive enabling device includes a list of approved pre-triggers; and wherein the interactive control application enables the retrieval of the interactive program and commercial content only if codes embedded in the interactive program and commercial pre-triggers match the codes in the list of approved pre-triggers (column 3, lines 52-57 and column 6, lines 44-47).

7. Claims 12, 29, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable Barone (US 2005/0005303) in view of Zigmond (US 6,330,719).

Regarding claim 12, Barone discloses a plurality of additional interactive enabling devices (ITV receivers—paragraph 0044, lines 1-7) in addition to said interactive enabling device (ITV receiver—20 in figure 3), each of said plurality of additional interactive enabling devices coupled for receiving a broadcast stream (TV signal—paragraph 0026, lines 1-8). Barone further discloses interactive program (interactive content for a corresponding TV program—paragraph 0031, lines 1-5) and commercial pre-triggers inserted into the broadcast stream (URL link, trigger, or any other ITV data is pre-inserted/preloaded into the program being broadcast— paragraph 0014, lines 1-6 and paragraph 0026, lines 1-8) for retrieving the interactive program (corresponding TV segment) and commercial content (television commercial—paragraph 0027, lines 1-6).



Barone fails to disclose a randomizer for randomly time-skewing the retrieval of the interactive program and commercial content in response to the interactive program and commercial pre-triggers.

In analogous art, Zigmond discloses a randomizer (interactive television receiver unit browser—column 2, line 27 and column 8, lines 65 – column 9, lines 7) for randomly time-skewing the retrieval of the interactive program and commercial content in response to the interactive program and commercial pre-triggers (column 2, lines 26-30 and 47-56 and column 4, lines 24-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Barone's system to include a random time-skewing, as taught by Zigmond, for the benefit of eliminating throughput bottlenecks by spreading accesses of a destination out over time (column 2, lines 47-56).

Considering claim 29, it is rejected for the same reasons as discussed in claims 9 and 12.

As for claim 43, it is met by the combination of Barone and Zigmond. In particular, Zigmond discloses that the randomizer (interactive television receiver unit browser—column 2, line 27 and column 8, lines 65 – column 9, lines 7) randomly time-skews a beginning of a retrieval of interactive commercial content that is specified by

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the interactive commercial pre-trigger within an allotted time window (column 2, lines 26-56 and column 4, lines 24-34).

With regards to claim 44, it is met by the combination of Barone and Zigmond. In particular, Zigmond discloses that the time window is a time period (period of time—column 2, lines 27-28 and column 4, lines 13-31) during which the interactive enabling device (interactive television receiver unit—column 8, lines 48-57) and each of the additional interactive enabling devices receive the enhanced program content in the broadcast stream (column 4, lines 47-64).

Regarding claim 48, it is rejected for the same reasons as discussed in claims 9 and 43.

***Allowable Subject Matter***

8. Claims 40, 41, 49, and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 1-8, 19-26, 34-38, and 45-47 are allowed.

Referring to all of the independent claims, the prior art of record fails to anticipate or rendered obvious an interactive enabling system for managing interactive program content associated with enhanced program content and interactive commercial content comprising the combined elements/steps including “the broadcast stream further including **interactive program triggers** and **interactive commercial triggers** for retrieving the interactive program and commercial content”, as recited in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Specifically, Andrade teaches a broadcast stream including interactive commercial triggers for retrieving the interactive commercial content (see Andrade— paragraph 0028, lines 1-14 and paragraph 0038, lines 1-13). Further, Barone teaches a broadcast stream including interactive program triggers **or** interactive commercial triggers for retrieving interactive program and commercial content . Andrade and Barone fail to disclose a broadcast stream including **both** interactive program triggers and interactive commercial triggers for retrieving the interactive program and commercial content.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harun M. Yimam whose telephone number is 571-272-7260. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6000.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HMY



**CHRISTOPHER GRANT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600**